

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

2:08-CV-520 JCM (LRL)

MAUI-FRESH INTERNATIONAL,
INC., et al.,

Plaintiffs,

v.

ALL ABOUT PRODUCE
ACQUISITION, LLC, et al.,

Defendants.

ORDER

Presently before the court is plaintiffs Maui-Fresh International, Inc and Grimmway Enterprises, Inc.'s motion for entry of default judgment against defendant All About Produce Acquisition, LLC d/b/a All About Produce. (Doc. # 217). Plaintiffs filed a supporting declaration of counsel Steven M. De Falco. (Doc. #218).

Also before the court is intervening plaintiff Monterey Mushrooms, Inc.'s motion for entry of default judgment against defendant All About Produce Acquisition, LLC d/b/a All About Produce. (Doc. # 219). Plaintiff filed a supporting declaration of counsel Steven M. De Falco. (Doc. #220).

Pursuant to Federal Rule of Civil Procedure 55(a), "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Federal Rule of Civil Procedure 55(b)(2) provides that "a court may enter a default judgment after the party seeking default applies to the clerk of the court as required by subsection (a) of this rule."

1 On July 25, 2008, plaintiffs Maui-Fresh International, Inc and Grimmway Enterprises, Inc.
2 served their summons and second amended complaint upon defendant All About Produce (doc. #78).
3 Defendant failed to file an answer or any other defense, and on July 20, 2009, the clerk entered
4 default against it. (Doc. #159). Plaintiffs now ask this court to enter default judgment in favor of
5 Maui- Fresh International, Inc. n/k/a Maui-Fresh International, LLC in the amount of \$47,521.09,
6 and in favor of Grimmway Enterprises Inc. d/b/a Grimmway Farms in the amount of \$9,804.16.

7 In the plaintiffs' supporting declaration (doc. #218), counsel asserts that the parties have been
8 damaged in the above stated amounts, and supports this assertion with the unpaid invoices of both
9 companies (docs. #218-1 and #218-2).

10 Intervening plaintiff Monterey Mushrooms Inc. served defendant All About Produce with
11 its summons and complaint-in-intervention on September 25, 2008 (doc. #112). Defendant failed
12 to respond in any manner, so the clerk entered default against it on July 20, 2009. (Doc. #160).
13 Monterey Mushrooms, Inc. asks this court to enter default judgment in the amount of \$18,353.60.
14 In the declaration of counsel Steven M. De Falco (doc. #220), he asserts that the amount sought
15 reflects the amount due and owing by the defendant, as evidenced by the unpaid invoices (doc. #220-
16 1).

17 Federal Rule of Civil Procedure 54(b) provides that when "multiple parties are involved, the
18 court may direct entry of final judgment as to one or more, but fewer than all, claims or parties, *only*
19 if the court expressly determines that there is no just reason for delay." (emphasis added).

20 In the case before the court, the parties served the defendant over two years ago. The
21 defendant has had ample opportunity to defend itself in this case, yet failed to do so. There is no just
22 reason for delay, and any further delay would prejudice plaintiffs and intervening plaintiff.

23 Accordingly,

24 IT IS HEREBY ORDERED ADJUDGED AND DECREED that plaintiffs Maui-Fresh
25 International, Inc and Grimmway Enterprises, Inc.'s motion for entry of default judgment against
26 defendant All About Produce Acquisition, LLC d/b/a All About Produce (doc. # 217) be, and the
27 same hereby is GRANTED.
28

1 IT IS THEREFORE ORDERED that default judgment be entered in favor of Maui-Fresh
2 International, Inc. n/k/a Maui-Fresh International, LLC in the amount of \$47,521.09, and in favor
3 of Grimmway Enterprises Inc. d/b/a Grimmway Farms in the amount of \$9,804.16, with interest to
4 accrue on the judgments from the date of the judgment at the statutory rate.

5 IT IS FURTHER ORDERED that Monterey Mushrooms, Inc.'s motion for entry of default
6 judgment against defendant All About Produce Acquisition, LLC d/b/a All About Produce (doc. #
7 219) be, and the same hereby is, GRANTED.

8 IT IS THEREFORE ORDERED that default judgment be entered in favor of Monterey
9 Mushrooms, Inc. in the amount of \$18,353.60, with interest to accrue on the judgment from the date
10 of the judgment at the statutory rate.

11 DATED December 2, 2010.

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13 
14 UNITED STATES DISTRICT JUDGE